

### **Remarks Concerning the Amendments**

The specification has been amended at pages 1 and 23 to update the citation to a parent application that has now issued as a patent.

Support for Claims 35 and 36 is found for example, in the Specification at page 19, lines 4-14.

In accordance with 37 C.F.R. § 1.121 and the notice in the February 25, 2003 Official Gazette, a complete listing of all claims in the application is included in an Appendix.

Claims 1-36 remain in the application.

## **Response to Restriction and Election Requirements**

Claims 35 and 36 have been added. Applicants provisionally elect Group I (Claims 1-27) with traverse. Reasons for the traversal are given below.

In response to the election of species requirement, Applicants provisionally elect without traverse a heat exchanger fabricated from nickel as the species for initial examination. Support for this provisionally elected species is found for example, in the Specification at page 19, lines 4-14. Alternatively, if the Office determines to limit the election of species to just one of the six species listed on page 3 of the Office Action, then in order to expedite prosecution of this application Applicants provisionally elect a heat exchanger fabricated from nickel-boron alloy as the species for initial examination.

Product Claims within provisionally-elected Group I that read on the provisionally-elected species (if nickel) are Claims 1-7, 12-21, 25, and 35-36; or (if nickel-boron) are Claims 1-7, 12-21, and 27.

## **Traversal of Restriction Requirement**

The August 16, 2003 Restriction Requirement identified two Groups of Claims: Group I, containing product Claims, and Group II, containing process Claims.

In order to expedite prosecution, Applicants have provisionally elected Group I. Applicants respectfully traverse the restriction requirement between Groups I and II.

The Office justified restricting Group I from Group II by asserting that the product of Group II could be "made by another materially different process, such as one in which a material other than a polymer is used as the fugitive forming material upon which the metal is plated." pg. 2, Office Action.

While Applicants do not intend to rule out the possibility that it may be possible to use other processes and materials, the burden is on the Office to show that a restriction requirement is justified. M.P.E.P. § 803 provides in part: "Examiners must provide reasons and/or examples to support conclusions . . ." The Office does not carry this burden merely by asserting that materials other than polymer might be used. The Office has not specified any alternative process.

It is respectfully submitted that the Office has not carried its burden of showing the existence of a specific, plausible, alternative process. Unless the Office carries this burden, it is respectfully submitted that the restriction requirement should be withdrawn.

## Conclusion

The restriction requirement should be withdrawn, and all pending Claims should be examined on their merits.

Allowance of Claims 1-36 at an early date is respectfully requested.

Respectfully submitted,



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October 24, 2003